

Original filed 5/1/07

NOT FOR CITATION

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

RICKEY LOUIS ALFORD, a.k.a.
Morris Day,

Plaintiff,

vs.

PAM HAM, et al.,

Defendants.

No. C 06-4195 JF (PR)

ORDER OF DISMISSAL

Plaintiff, a state prisoner and frequent litigant in this Court, filed the instant civil rights complaint against the following Defendants: Monterey County District Attorneys Pam Ham and Dean Flipp, Superior Court Judge Marla Anderson, and Judge Russel Scott. Plaintiff also filed an application to proceed in forma pauperis under 28 U.S.C. § 1915. On October 24, 2006, the Court issued an Order to Show Cause to Plaintiff as to why the instant complaint should not be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g). See Andrews v. King, 398 F.3d 1113, 1121 (9th Cir. 2005). On November 28, 2006, Plaintiff filed a response to the Court's order. In his response, Plaintiff does not address his prior dismissed actions, or dispute that these prior cases, as set forth below, qualify under 28 U.S.C. 1915(g).

1 The Prison Litigation Reform Act of 1995 ("PLRA"), which was enacted on April
2 26, 1996, provides that a prisoner may not bring a civil action or appeal a civil judgment
3 under 28 U.S.C. § 1915 "if the prisoner has, on 3 or more prior occasions, while
4 incarcerated or detained in any facility, brought an action or appeal in a court of the
5 United States that was dismissed on the grounds that it is frivolous, malicious, or fails to
6 state a claim upon which relief may be granted, unless the prisoner is under imminent
7 danger of serious physical injury." 28 U.S.C. § 1915(g).

8 A review of the dismissal orders in Plaintiff's prior prisoner actions in this Court
9 reveal that he has had at least three such cases dismissed on the grounds that they were
10 frivolous, malicious, or failed to state a claim upon which relief may be granted. See Day
11 v. Feinstein, C 96-1796-FMS (dismissed as frivolous); Alford v. Johnson, C 05-1352 JF
12 (PR) (dismissed for failure to state a claim); Alford v. Sony Electronic Inc., C 05-1581 JF
13 (PR) (dismissed for failure to state a claim). In light of these dismissals, and because
14 Plaintiff is not under imminent danger of serious physical injury, the instant civil rights
15 action is DISMISSED without prejudice pursuant to 28 U.S.C. § 1915(g). Plaintiff may
16 file his claims in a paid complaint in a new civil rights action. The Clerk shall terminate
17 any pending motions and close the file. No filing fee is due.

18 IT IS SO ORDERED.

19 DATED: 4/30/07


JEREMY FOGEL
United States District Judge

1 A copy of this ruling was mailed to the following:

2 Rickey Louis Alford
3 J-39242
4 CSP - Salinas Valley IV
5 P.O. Box 1060
6 Soledad, CA 93960-1060
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